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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U.S. DIST. COURT EAST DIST. WISC. FILED MAR - 8 2006 AT _____ O'CLOCK _____ M SOFRON B. NEDILSKY
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MICHAEL HAWTHORNE,

Plaintiff,

v.

Case No. 05-C-219

LUKE CHANG, KRISTINA SULLIVAN,
DANIEL SUSZEK, and TRAVIS THOMPSON,

Defendants.

ORDER

Plaintiff Michael Hawthorne, who is incarcerated at Dodge Correctional Institution, filed this *pro se* civil rights action under 42 U.S.C. § 1983 and was granted leave to proceed *in forma pauperis*. Court records indicate that on January 6, 2006, the defendants filed a motion for summary judgment, along with a supporting brief and affidavit. However, no certificate of service was filed and there is no indication that the defendants served the plaintiff with their motion. Moreover, the plaintiff has not filed a response to the defendants' motion for summary judgment.

The defendants must serve their motion for summary judgment upon the plaintiff. *See* Fed. R. Civ. P. 5(a). Also, the defendants are required to file a certificate of service with the court demonstrating that they have complied with service requirements. *See* Fed. R. Civ. P. 5(d); *Golden v. McCaughtry*, 915 F. Supp. 77, 79 (E.D. Wis. 1995).

Based upon the defendants' failure to comply with the Federal Rules of Civil Procedure, their motion for summary judgment will be denied. The defendants are advised that they may renew their

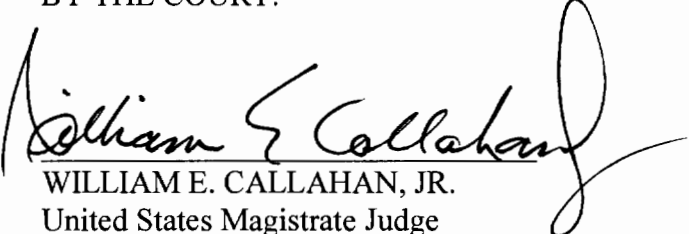
motion for summary judgment, without refiling it, by complying with the Federal Rules of Civil Procedure. The defendants are further advised that if they renew their motion they must provide the *pro se* plaintiff with the notice required in the Local Rules. *See* Civil L.R. 56.1 (E.D. Wis.) (Summary Judgment Motions in Pro Se Litigation).

ORDER

IT IS THEREFORE ORDERED that the defendants' motion for summary judgment (Docket #20) be and hereby is **DENIED**.

Dated at Milwaukee, Wisconsin this 8th day of March, 2006.

BY THE COURT:


WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge